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MAY 24 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

EX PARTE

Mr. William Caton
Acting Secretary
Federal Communications Commission
Mail Stop Code 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RE: CC Docket No. 93-251 - Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions Between Carriers and Their Nonregulated Affiliates

Dear Mr. Caton:

Yesterday, May 24, 1994, on behalf of Pacific Bell and Nevada Bell, Darcy Beal of Pacific Bell and I met with Ken Ackerman, Chief, Accounting Systems Branch; Bill Kehoe, Chief, Legal Branch; and Ed Dashkin of the Accounting staff, regarding the above referenced proceeding. We discussed the companies' position and comments in the proceeding as outlined in the attached handout material.

Please include this letter and the attachment in the record of that proceeding.

Acknowledgement and date of receipt of this transmittal are requested. A duplicate letter is attached for this purpose.

Please contact me if you have any questions concerning this matter.

Respectfully submitted,

Sherry Herauf

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Attachment

cc: Kenneth Ackerman, Chief, Accounting Systems Branch
William Kehoe, Chief, Legal Branch
Ed Dashkin, Accounting Systems

PACIFIC BELL AND NEVADA BELL

KEY POINTS FOR CONSIDERATION IN

CC DOCKET NO. 93-251

PROPOSALS TO ACCOUNT FOR TRANSACTIONS BETWEEN CARRIERS AND THEIR NONREGULATED AFFILIATES

I. There is no need to reevaluate the existing rules.

A. Existing rules provide a framework to safeguard against cross-subsidy.
B. The framework has been successful, as verified by audits.
C. Changes would burden ratepayers with unnecessary costs with no commensurate benefit.

II. Determining the Fair Market Value of services is unnecessarily burdensome.

A. There is no reason to apply the asset transfer rules to services.
B. In 1987, the Commission correctly rejected fair market valuation for services.
C. Proposal could result in a subsidy from nonregulated affiliates to ratepayers.
D. As the NPRM asserts, price caps motivate carriers to operate efficiently; affiliate transaction rules do not and will not change that motivation.
E. This particular proposal would be extremely costly considering the number of services provided among affiliates.
F. If fair market value is required to be ascertained for services, alternate and reasonable methods should be allowed rather than formal market value studies. Recommend a level of annual billings to an affiliate be reached before a fair market value analysis be performed, with the analysis updated every four years with CPI yearly updates.
G. In any event, fair market valuation should not apply to governance functions.

III. The rules for "Prevailing Company Pricing" do not need to be changed.

A. "Prevailing Company Price" was defined in the Order in CC Docket No. 86-111 as market price determined from prevailing price lists held out to the general public in the normal course of business.
B. As long as the prevailing price offered to affiliates is actually the same as that offered to unaffiliated third parties, there can be no allegation of favoritism or cross subsidy.
C. Implicitly, if there is no cross-subsidy the ratepayer is protected.
D. There is no need to have a "bright line" test, nor to distinguish between affiliates.

IV. No rules should be applied to transactions between nonregulated operations and nonregulated affiliates.

A. The proposal to apply the 32.27 rules to affiliate transactions between nonregulated operations and nonregulated affiliates is unwarranted. If an activity has been declared nonregulated, then there should be no rules governing what amounts the activity chooses to incur in its nonregulated operations for transactions with others.
B. Part 64 removes all fully distributed nonregulated costs from regulated operations. Thus, there is no ratepayer harm from any nonregulated activity.
C. Likewise, it is unnecessary to further allocate nonregulated amounts between those incurred to provide services to affiliates and those incurred to provide services to non-affiliates. Once found to be nonregulated and removed from the cost of operations, there is no ratepayer benefit to be gained from any further distinction.

V. Costs to affiliates should continue to be tracked as today for business purposes.

A. The proposal to track "group" affiliate costs is unreasonable, and would require a greatly expanded accounting system to track and record costs.
B. The current generic rate base methodology is appropriate and reasonable for a nonregulated affiliate.
C. In a competitive nonregulated affiliate, ALL plant is "used and useful".
D. Part 65 principles regarding inclusions, exclusions, and deductions to rate base must be applied in a flexible manner when dealing with nonregulated affiliates.
E. The current policy should continue of allowing variations from the use of the generic rate base and rate of return when it is in the best interest of the ratepayer.

VI. Booking estimated costs of affilate transactions for later true-up is unnecessary and burdensome.

A. Booking estimated costs is contrary to GAAP if the actual costs are known.
B. Actual results from affiliate transactions are readily available.
C. A true-up process would require unnecessary expenditure and effort for no perceived benefit.

VII. There is no need for any of the proposals in the NPRM.

A. The NPRM should be rejected.
B. Changes would burden ratepayers with unnecessary costs with no commensurate benefit.